

Department of Permitting and Inspections

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MEMORANDUM

To: The Design Advisory Board
From: Mary O'Neil, AICP, Principal Planner
RE: 75 Cherry Street; ZP21-0414CA
Date: January 26, 2021

File: 21-0414CA; Amendment to ZP17-0662CA/MA

Location: 75 Cherry Street (Burlington City Place)

Zone: FD6 **Ward:** 3C

Parking District: Multi-Modal Mixed Use

Date application accepted: October 19, 2020 (incomplete); deemed complete January 4, 2021.

Applicant/ Owner: BTC Mall Associates

Request: Amendment to ZP17-0662CA/MA; redevelopment of the former Burlington Town Center Mall site into 700,000 sf mixed use. 426 residential units, restaurant, retail, community space, co-working and meeting space. Includes 422 parking spaces in structured garage.



Background:

75 Cherry Street

- **Zoning Permit 21-0354AP;** Appeal of Zoning Administrator Determination regarding relinquishing 17-0662CA/MA. Appeal public hearing scheduled for February 16, 2021.

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- **Zoning Permit 20-0522CA**; Amend ZP 17-0662CA/MA phasing schedule. Application withdrawn January 2021.
- **Zoning Permit 18-0996CA**; fenestration changes above the podium. Minor changes to accent materials changing metal panel between the windows, on selected corners, and partial facades to limestone finish precast panel. Elevations include approved cable railings. Original Permit ZP17-0662CA/MA. May 2018.
- **Zoning Permit 18-0768CA**; 7th and 12th floor amenity space; change to project phasing. April 2018.
- **Zoning Permit 18-0648CA**; amendment to 17-0662CA/MA; addition of 16 residential units on the east and west elevations at level 2,3, and 4 reflected in exterior revisions and floorplans. Elimination of awnings at retail. Parking layout revision. February 2018.
- **Zoning Permit 18-0538CA**; Exterior Boiler Flue. December 2017.
- **Zoning Permit 18-0225CA**; install roof top unit to support existing retail. August 2017.
- **Zoning Permit 17-0662CA/MA**; mixed use redevelopment of the existing Burlington Town Center mall site and associated lot line adjustments. March 2017; adjudicated, Stipulation Agreement issued July 17, 2017.
- **Zoning Permit 12-0391CA**; convert asphalt turnaround area to grass and landscaping on Cherry Street side of property. September 2011.
- **Zoning Permit 79-120**; pathways within the urban renewal area and drive into parking area on parcel 10 as marked to be paved. (Cherry Street circular drive.) April 1979.

49 Church Street (interior of assembled parcels prior to boundary line adjustment, excluding Church St. frontage)

- **Non-applicability of Zoning Permit Requirements 10-0992NA**; interior fit up for salon. May 2010.
- **Zoning Permit 10-0495CA**; install new rooftop HVAC system for Baby Gap store. November 2009.
- **Zoning Permit 10-0191CA**; install 34 x 34 in wide and 32 high 5 ton AC system on roof of Mall and connect to existing duct work. September 2009.
- **Zoning Permit 07-126SN**; Four replacement parallel signs for Burlington Town Center (Bank St. and Church St. facades and 3 new freestanding signs (Church St.) Parallel Church St. signs to be lit with new reverse channel illumination; freestanding signs to be externally illuminated. No illumination proposed for Bank St. parallel signs. August 2006.
- **Zoning Permit 04-087**; install metal panels to match Old Navy storefront, patch and paint to match. August 2003.
- **Zoning Permit 03-268**; install non-illuminated canvas shed awning on Bank St. façade of Pottery Barn. December 31, 2002.

- **Zoning Permit 03-108**; installation of concrete landing and stairs with handrails at service entry for Burlington Town Center (Pottery Barn) on Bank Street. September 2002.
- **Zoning Permit 02-360**; installation of two black canvas awnings on Bank Street for J. Crew Store. March 2002.
- **Zoning Permit 02-361**; installation of projecting sign on Bank Street for J. Crew Store. March 2002.
- **Zoning Permit 02-328**; installation of two rooftop fan units for Empire Express restaurant. February 2002.
- **Zoning Permit 02-232**; installation of 2 parallel signs on Cherry Street at Gap elevation. Installation of 2 parallel signs on Cherry Street at Filene's elevation. November 2001.
- **Zoning Permit 01-488**; parallel sign for J. Crew store, frontage on Bank Street. June 2001.
- **Zoning Permit 01-483**; amend previously approved façade improvements for the Bank Street storefront portion of the existing Burlington Town Center retail mall. Tenant to be J. Crew. June 2001.
- **Zoning Permit 01-445**; renovations to the Bank Street façade of the mall. May 2001.
- **Zoning Permit 01-404**; amend previously approved façade changes for the Cherry Street and Church Street facades of the existing retail mall. April 2001.
- **Zoning Permit 00-494**; renovations to the Cherry, Bank and Church Street frontages of the existing mall. April 2000.
- **Non-applicability of Zoning Permit Requirements**; interior change of use of 600 sq. ft. to nail salon. September 1996.
- **Non-applicability of Zoning Permit Requirements**; interior continued use of 30,000 sq. ft. for offices. June 1995.
- **Zoning Permit 93-226**; fenestration renovations to Cherry Street façade of mall for the Gap. Includes combining two windows into one and the installation of a service door. November 1992.
- **Zoning Permit 92-160**; change of use within Burlington Square Mall from bank offices to fitness center, 16,110 sq. ft. October 1991.
- **Zoning Permit 87-119**; place 8 signs for Burlington Square on various facades of structures. December 1987.
- **Zoning Permit 84-331 / COA 84-067**; construction addition to Radisson Hotel (64 new rooms, net 57 rooms) with 467 space parking garage, new 68,000 sq. ft. department store on Bank Street (Porteous), 48,000 sq. ft. addition to Burlington Square Mall. July 1984.
- **Zoning Permit 81-821**; open access between Burlington Square Mall and Woolworths at lower level of mall. December 1981.
- **Zoning Permit 81-814**; remove staircase off atrium to plaza level. December 1981.
- **Determination of Non-Applicability**; new retail store – The Limited. September 1981.

- **Determination of Non-Applicability**; wall finishes, suspended ceilings, lighting, finish flooring & store fixtures. August 1981.
- **Zoning Permit 81-578**; erect five flagpoles and one kiosk at the entrance to the mall as per 4443 (c) approval of the Board of Aldermen on 6.15.1981. June 1981.
- **Zoning Permit 81-20**; (current use; vacant land); pave pathway currently used by (illegible) between Cherry and Pearl Street to ?; erect fence with gates along the northerly and southerly boundaries. October 1980.
- **Zoning Permit 81-190**; removal of existing stairs southeast corner of mall atrium. September 1980.
- **Zoning Permit 81-171**; construct a fountain in previously approved project (scope of services). September 1980.
- **Zoning Permit 80-900**; bring plaza beneath VFSL out flush with building for offices, west elevation.
- **Zoning Permit 80-755**; construct stairway connection between McDonalds and Proposed Burlington Square Expansion. March 1980.
- **Zoning Permit 595**; Church Street entrance of Burlington Square and add approx. 30,000 sq. ft. of retail and common area space extending from Church Street to easterly boundary parcel 3. May 1979.
- **Zoning Permit 80-710**; remove stairs northwest corner of atrium from atrium floor to balcony. January 1980.
- **Zoning Permit 79-92**; entrance to Burlington Square shopping mall and open plaza. April 1979.
- **Zoning Permit 79-17**; Church Street entrance of Burlington Square and add approx. 30,000 sq. ft. of retail and common area extending from Church Street to westerly boundary of parcel 3. May 1979.
- **Zoning Permit 79-150**; install a separate entrance to the restaurant with awning at the westerly end of Burlington Square to permit evening hours independently of hours of Burlington Square Mall. May 1979.
- **Zoning Permit 78-243**; retail fruits/vegetables/juices sold from movable cart in mall atrium. December 1978.
- **Zoning Permit 78-810**; Top of the Square Inc. to erect a 60' x 60' tent and a dressing tent on the Plaza level of the Burlington Square Mall, to be used for an assembly occupancy. May 1978.
- **Amended Certificate of Appropriateness, application #75-16**; change in design of car drive-in drop off point between Vermont Federal Savings and Loan Office building and parking garage. Specifically, double curb cut, larger turnaround to accommodate 12 cars instead of 5, landscaped island with stairwell leading to concourse level incorporated within island. March 1975.
- **Certificate of Appropriateness**; construction of a below grade retail mall with open plaza above as shown on the plans dated November 20, 1972 and revised on October 26,

1973 and prepared by the office of Mies Van der Rohe and Freeman, French, Freeman. March 1974.

Overview: BTC Associates seek to amend the original redevelopment plan (17-0662CA/MA, as amended) that will result in:

- Overall reduction in square footage of approximately 25%. This is accompanied by a reduction in building height.
- Replacement of office use with additional residential units.
- Increase in square footage of housing, and an accompanying increase in the number of residential units- both market rate and inclusionary. (426 total; 85 IZ).
- Eliminate the hotel use.

As this project is within Form District 6, a majority of the review is administrative. The applicants have provided the required Checklists for staff to review for compliance.

The Design Advisory Board's role is limited to:

1. A recommendation relative to the request for additional height above that allowed by administrative authority;
2. A recommendation relative to review of proposed composite building materials; and
3. A recommendation relative to any request for DRB Alternative Compliance.

Applicable Standards for Design Advisory Board review:

Article 14 Downtown Code

Section 14.3.4-D Building Form (Form District 6)

14.3.4-D- BUILDING FORM

BUILDING HEIGHT



Principal
Buildings

Subject to Administrative Review:

- 3 Stories min.
- 4 Stories max., not to exceed 45-feet within 20-feet of the Frontage Line on the Church Street Marketplace¹; otherwise,
- 6 Stories max., not to exceed 65-feet

Subject to DRB Review per Sec. 14.6.4 f:

- 10 Stories max., not to exceed 105-feet; or,
- 14 Stories max, not to exceed 160-feet ²

²Subject to Regulating Plan Special Requirements Map 2 - Specific Height Areas (See Sec. 14.2.6), a Building with a Principal Frontage in the area identified as "A" may be increased to a maximum of 14 Stories not to exceed 160-feet.

The subject parcel is within the area identified as “A” on Map 2 – *Specific Height Areas* and is therefore eligible to request building height up to 160’.

The North residential building has a building height of $\pm 107'2''$ to the top of the roof deck of the highest occupied level from Cherry Street average grade; $\pm 122'2''$ to roof deck of mechanical penthouse.

The South residential building is $\pm 127'10''$ from Bank Street average grade to the restaurant/observation deck roof, and $\pm 142'10''$ to the mechanical penthouse roof. All heights are below the 160’ maximum allowable.

Section 14.6.4 Building Height

(f) Design and Public Space Standards Required for Additional Building Height

*i. Design Standards: The maximum building height and mass is permitted By Right by the underlying Form District, as may be modified by the chosen Building Type and Frontage Type. However, there are a number of ways that building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of taller buildings, and ensure a high quality of design that complements the character of the Downtown and Waterfront area. After consultation with **the Design Advisory Board** and a Public Hearing, the Development Review Board shall evaluate any proposal seeking additional Building height under each of the following additional design standards, and find affirmatively that:*

- a. The proposed building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and provides visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques;*



The building volume of the north residential building steps back at the 5th floor and is vertically accentuated with changes in the building plane, arrangement of windows, and introduction of varying primary materials. The roofline is accentuated with a bold cornice projection on different planes, breaking the massing up into readable building volumes. The cornice both caps the massing, and leads the eye down the street supporting and strengthening the street plane. The pedestrian level is enhanced with broad glazing to welcome and warm the streetfront energizing the pedestrian experience; strong material interplay delineates both building volume and division of segregate spaces. Vertical masonry piers draw the eye upward linking the lower pedestal to the upper, recessed stories.

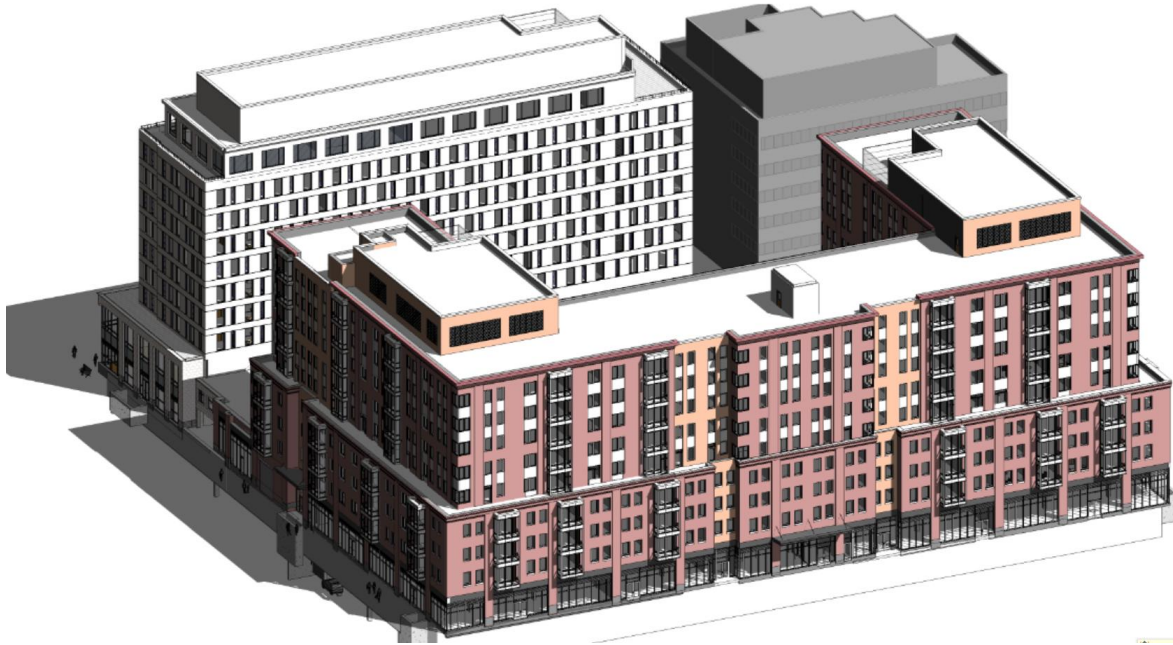


The southern residential building has a defined and welcoming street presence, with a first and second story height that both strengthen the street wall as they mime the building heights of the existing buildings across Bank Street. The changing grade allows for the minimum 33' height to enforce that street wall. The massing steps back above this floor, with a more uniform material palette that continues the vertical pier element seen in the northern building. The feeling is light and buoyant; a silvery silhouette on a largely glass pedestal. Both building volumes establish points of reference for visual orientation; and provide optical interest and human scale at the pedestrian level through the use of step backs, horizontal and vertical variation, selection of materials, and other architectural design techniques to reinforce the street wall and reduce the perceived height and mass of upper stories from the street level.

and,

- b. Upper story proportions of the building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual building elements from the public thoroughfare.*

The north and south buildings are clearly divided into separate volumes, allowing sky views between building elements. The upper stories are stepped back on both the north and south buildings.



The DRB may condition approval of additional building height by reducing the By-Right building mass by no more than 10% of the total floor area of the new floors enabled by granting the additional building height. In no case shall the maximum By-Right building height be reduced.

The plan, as submitted, does not introduce such height that would suggest a necessary concomitant reduction in building mass. This amendment reduces the originally approved building height.

ii. Active Public Space and Restrooms

A minimum of 20 sf/1,000 sf of the gross floor area above 85 feet shall be dedicated to active and publicly accessible upper story rooftops and terraces, and/or street-level public restrooms as follows:

- a. Upper story rooftops and terraces must incorporate active public use such as outdoor dining with seating or other uses and activities that invite use by the public, and be located above the 7th floor. At least 25% of the space must be accessible to the general public during all regular business hours without expectation of payment or purchase.*



A public observation deck is located on the 9th floor of the Bank Street (South) building consisting of an enclosed lobby and an exterior deck. Public access is via the Bank Street entry point. Public, gender-neutral toilet facilities are provided adjacent to the interior lobby.

- b. Public restroom may count towards the public space requirement above at a ratio of 10:1. Public restrooms must be located on the ground floor, have a minimum size of 50 sq. ft., be signed from the public street, be actively monitored and maintained, and be open to the public during all regular business hours. Placement of a public restroom in partnership with the City within an adjacent public space or the public ROW may be acceptable with the concurrence of the respective responsible City department and provided actual development costs and projected 20 year maintenance costs are paid by the applicant.*

See above.

Section 14.4.13 Urban Design Standards

d) Building Materials

The following requirements regarding the selection and use of Building materials is intended to improve the physical quality and durability of buildings, enhance the pedestrian experience, and maintain the character of the downtown area.

- i. Primary Materials: not less than 80 percent of each street facing Façade shall be constructed of one or more Primary Materials comprised of tested and proved, high quality, durable, and natural products. For Facades over 100 square feet, more than one Primary Material shall be used. Changes between Primary Materials must occur only at inside corners. The following are considered acceptable Primary Materials:*
 - A. Brick and tile masonry*
 - B. Native stone;*
 - C. Wood – panels, clapboard or shingles;*
 - D. Glass curtain wall and*
 - E. Cementitious siding.*

vi. Alternate Materials

*Alternate materials, including high quality synthetic materials may be approved by the Planning Director after **seeking input from the Design Advisory Board**. New materials must be considered equivalent or better than the materials listed above and must demonstrate successful, high quality local installation. Regionally available materials are preferred.*

Several materials are under consideration for the stone look panels, including ceramic products, sintered stone, and manufactured stone such as Arriscraft. As composites, they require review and recommendation by the Design Advisory Board.

Sintered stone itself is widely used in development and redevelopment projects. The applicant team will introduce samples to the DAB. An extract from their submission is attached.

Section 14.7.3-Variation from the Form: Administrative Relief, DRB Alternative Compliance and Variances.

(b) Alternative Compliance Granted by the Development Review Board. Additional relief from the prescribed standards may be granted by the DRB as provided below.

i. *DRB Alternative Compliance: Relief from any non-numerical standard, and any numerical standard by no more than 20% of such requirement or an additional 10% beyond any Administrative Relief permitted above, may be granted by the Development Review Board after review and recommendation by the Design Advisory Board and a Public Hearing. Decisions by the DRB regarding any Alternative Compliance granted shall be made in writing and upon affirmative findings that:*

- A. *The relief sought is necessary in order to accommodate unique site and/or Building circumstances or opportunities;*
- B. *The relief if granted is the minimum necessary to achieve the desired result;*
- C. *The property will otherwise be developed consistent with the purpose of this ordinance the intent of the Form District, the intent and purpose of the section that the relief is being sought, and all other applicable standards;*
- D. *The relief, if granted will not impose an undue adverse burden on existing or future development of adjacent properties; and*
- E. *The relief if granted will yield a result equal to or better than strict compliance with the standard being relieved.*

The application will require Alternative Compliance from two standards:

Section 14.6.7 Parking and Circulation

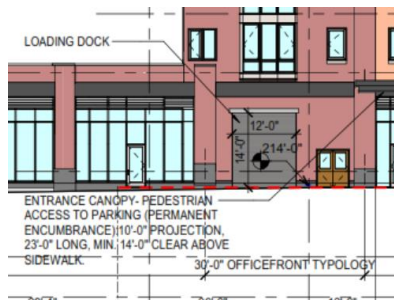
(c) General Parking, Loading, Service and Driveway Standards

iv. *Loading and service areas, overhead doors, and other service entries shall not be located on a primary Frontage or Façade where a rear Alley or secondary Frontage is available; and shall be screened from view by a Building or a Streetscreen. Where no alternative to a Primary Frontage or Façade is available, loading and service doors shall not exceed 12 feet in width and 16 feet clear height.*

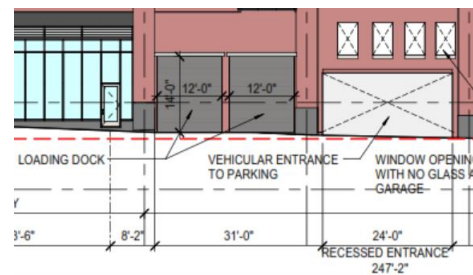
Loading and service overhead doors are not on the Primary Frontage, but on secondary Facades (St. Paul, Pine, and Bank Streets.) The applicant asserts that doors 12' in width may not be possible due to truck maneuvering clearances and the width of the newly planned streets. An additional complication is Natural Gas (Vt. Gas) at grade service. This requires areas of solid façade adjacent to St. Paul St. Meters will be located in special rooms within the docks and designed in conjunction with Vt. Gas to meet service requirements with minimal variation from the Form Based Code regulations.

The 20% allowable DRB relief would accommodate a door width of **14' 4¹³/₁₆"**.

The Bank Street loading dock was previously approved under 17-0662CA/MA as two openings, each 20'6" wide. The Bank Street loading dock may therefore be permitted up to that width.



St. Paul Street loading dock

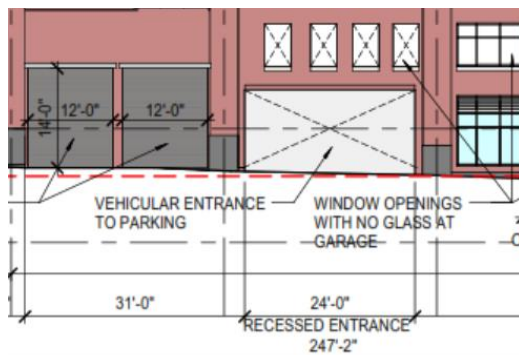


Pine Street loading dock

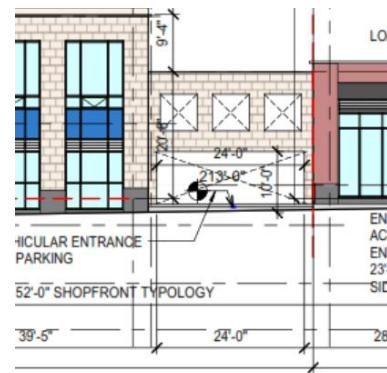
(e) Parking Structures and Garages

- ii. *Façade openings shall be combined for ingress/egress, and shall not exceed 24 feet in width and 16 feet in clear height at the Frontage. Only one such opening per street Frontage may be permitted. Façade openings may be separated for ingress/egress where they access different Frontages.*

Although the plan set illustrates parking entries to be 24' in width, the applicant acknowledges that it may not be functionally possible. The two newly established streets (St. Paul, Pine) are quite narrow, and the Parking flow study for parking volumes in conjunction with the traffic study test the width limitation. A 20% maximum relief would offer an additional 4.8' width allowance or a maximum of **28' 9 ¹⁹/₃₂"**.



Pine Street parking access, detail.



St. Paul Street parking access, detail

Recommended motion: Approve request for height above by-right, use of composite materials as defined, and recommend DRB Alternative Compliance; forwarding to DRB for final review.